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CIVIL COVER SHEETJS 44C/SDNY  
REV. 06/01/17

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

## PLAINTIFFS

Apex Tool Group, LLC

## DEFENDANTS

Sears Holdings Corporation, et al.

## ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Ropes &amp; Gray LLP

1211 Avenue of the Americas, New York, NY 10036-8704

(212) 596-9000

## ATTORNEYS (IF KNOWN)

Weil, Gotshal &amp; Manges LLP

767 Fifth Avenue, New York, NY 10153

(212) 310-8000

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)  
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

28 U.S.C 158 - Appeal from Bankruptcy Court Order

Judge Previously Assigned

Has this action, case, or proceeding, or one essentially the same been previously filed in SDNY at any time? No ☒ Yes ☐If yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date \_\_\_\_\_ & Case No. \_\_\_\_\_

IS THIS AN INTERNATIONAL ARBITRATION CASE?

No ☒ Yes ☐

(PLACE AN [x] IN ONE BOX ONLY)

## NATURE OF SUIT

## TORTS

## ACTIONS UNDER STATUTES

## CONTRACT

- ☐ 110 INSURANCE  
☐ 120 MARINE  
☐ 130 MILLER ACT  
☐ 140 NEGOTIABLE INSTRUMENT  
☐ 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT  
☐ 151 MEDICARE ACT  
☐ 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL VETERANS)  
☐ 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS  
☐ 160 STOCKHOLDERS SUITS  
☐ 190 OTHER CONTRACT  
☐ 195 CONTRACT PRODUCT LIABILITY  
☐ 196 FRANCHISE

## PERSONAL INJURY

- ☐ 310 AIRPLANE  
☐ 315 AIRPLANE PRODUCT LIABILITY  
☐ 320 ASSAULT, LIBEL & SLANDER  
☐ 330 FEDERAL EMPLOYERS' LIABILITY  
☐ 340 MARINE  
☐ 345 MARINE PRODUCT LIABILITY  
☐ 350 MOTOR VEHICLE  
☐ 355 MOTOR VEHICLE PRODUCT LIABILITY  
☐ 360 OTHER PERSONAL INJURY  
☐ 362 PERSONAL INJURY - MED MALPRACTICE

## ACTIONS UNDER STATUTES

## CIVIL RIGHTS

- ☐ 440 OTHER CIVIL RIGHTS (Non-Prisoner)  
☐ 441 VOTING  
☐ 442 EMPLOYMENT  
☐ 443 HOUSING/  
☐ 445 AMERICANS WITH DISABILITIES - EMPLOYMENT  
☐ 446 AMERICANS WITH DISABILITIES - OTHER  
☐ 448 EDUCATION

- PERSONAL INJURY  
☐ 367 HEALTHCARE/  
 PHARMACEUTICAL PERSONAL INJURY/PRODUCT LIABILITY  
☐ 365 PERSONAL INJURY PRODUCT LIABILITY  
☐ 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

## PERSONAL PROPERTY

- ☐ 370 OTHER FRAUD  
☐ 371 TRUTH IN LENDING

- ☐ 380 OTHER PERSONAL PROPERTY DAMAGE  
☐ 385 PROPERTY DAMAGE PRODUCT LIABILITY

## PRISONER PETITIONS

- ☐ 463 ALIEN DETAINEE  
☐ 510 MOTIONS TO VACATE SENTENCE 28 USC 2255  
☐ 530 HABEAS CORPUS  
☐ 535 DEATH PENALTY  
☐ 540 MANDAMUS & OTHER

## PRISONER CIVIL RIGHTS

- ☐ 550 CIVIL RIGHTS  
☐ 555 PRISON CONDITION  
☐ 560 CIVIL DETAINEE CONDITIONS OF CONFINEMENT

## FORFEITURE/PENALTY

- ☐ 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881  
☐ 690 OTHER

## PROPERTY RIGHTS

- ☐ 820 COPYRIGHTS  
☐ 830 PATENT  
☐ 835 PATENT-ABBREVIATED NEW DRUG APPLICATION  
☐ 840 TRADEMARK

## LABOR

- ☐ 710 FAIR LABOR STANDARDS ACT  
☐ 720 LABOR/MGMT RELATIONS  
☐ 740 RAILWAY LABOR ACT  
☐ 751 FAMILY MEDICAL LEAVE ACT (FMLA)  
☐ 790 OTHER LABOR LITIGATION  
☐ 791 EMPL RET INC SECURITY ACT (ERISA)

## IMMIGRATION

- ☐ 482 NATURALIZATION APPLICATION  
☐ 485 OTHER IMMIGRATION ACTIONS

## BANKRUPTCY

- ☒ 422 APPEAL 28 USC 158  
☐ 423 WITHDRAWAL 28 USC 157

## SOCIAL SECURITY

- ☐ 861 HIA (1395ff)  
☐ 862 BLACK LUNG (923)  
☐ 863 DIWC/DIWW (405(g))  
☐ 864 SSID TITLE XVI  
☐ 865 RSI (405(g))

## FEDERAL TAX SUITS

- ☐ 870 TAXES (U.S. Plaintiff or Defendant)  
☐ 871 IRS-THIRD PARTY 26 USC 7609

## OTHER STATUTES

- ☐ 375 FALSE CLAIMS  
☐ 376 QUI TAM  
☐ 400 STATE REAPPORTIONMENT  
☐ 410 ANTI-TRUST  
☐ 430 BANKS & BANKING  
☐ 450 COMMERCE  
☐ 460 DEPORTATION  
☐ 470 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO)  
☐ 480 CONSUMER CREDIT  
☐ 490 CABLE/SATELLITE TV  
☐ 850 SECURITIES/COMMODITIES/EXCHANGE  
☐ 890 OTHER STATUTORY ACTIONS  
☐ 891 AGRICULTURAL ACTS  
☐ 893 ENVIRONMENTAL MATTERS  
☐ 895 FREEDOM OF INFORMATION ACT  
☐ 896 ARBITRATION  
☐ 899 ADMINISTRATIVE PROCEDURE ACT/REVIEW OR APPEAL OF AGENCY DECISION  
☐ 950 CONSTITUTIONALITY OF STATE STATUTES

Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y. AS DEFINED BY LOCAL RULE FOR DIVISION OF BUSINESS 13? IF SO, STATE:

DEMAND \$ \_\_\_\_\_ OTHER \_\_\_\_\_ JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

Check YES only if demanded in complaint  
 JURY DEMAND: ☐ YES ☐ NO

NOTE: You must also submit at the time of filing the Statement of Relatedness form (Form IH-32).

(PLACE AN x IN ONE BOX ONLY)

**ORIGIN**

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from (Specify District) ☐ 6 Multidistrict Litigation (Transferred) ☐ 7 Appeal to District Judge from Magistrate Judge ☐ 8 Multidistrict Litigation (Direct File)
- ☐ a. all parties represented ☐ b. At least one party is pro se.

(PLACE AN x IN ONE BOX ONLY)

**BASIS OF JURISDICTION**

**IF DIVERSITY, INDICATE  
CITIZENSHIP BELOW.**

- ☐ 1 U.S. PLAINTIFF ☐ 2 U.S. DEFENDANT ☒ 3 FEDERAL QUESTION ☐ 4 DIVERSITY  
(U.S. NOT A PARTY)

**CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)**

(Place an [X] in one box for Plaintiff and one box for Defendant)

	PTF	DEF		PTF	DEF		PTF	DEF
CITIZEN OF THIS STATE	[ ] 1	[ ] 1	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	[ ] 3	[ ] 3	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	[ ] 5	[ ] 5
CITIZEN OF ANOTHER STATE	[ ] 2	[ ] 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[ ] 4	[ ] 4	FOREIGN NATION	[ ] 6	[ ] 6

**PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)**

Apex Tool Group, LLC  
c/o Ropes & Gray LLP  
1211 Avenue of the Americas  
New York, NY 10036-8704

**DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)**

Sears Holdings Corporation, et al.  
Weil, Gotshal & Manges LLP  
767 Fifth Avenue  
New York, NY 10153

**DEFENDANT(S) ADDRESS UNKNOWN**

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

**COURTHOUSE ASSIGNMENT**

I hereby certify that this case should be assigned to the courthouse indicated below pursuant to Local Rule for Division of Business 18, 20 or 21.

Check one: THIS ACTION SHOULD BE ASSIGNED TO:

☐ WHITE PLAINS ☒ MANHATTAN

DATE

10/29/19

SIGNATURE OF ATTORNEY OF RECORD

*James M. Fabel*

ADMITTED TO PRACTICE IN THIS DISTRICT

[ ] NO

☒ YES (DATE ADMITTED Mo. 11 Yr. 2007)

Attorney Bar Code # GG8347

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge \_\_\_\_\_ is so Designated.

Ruby J. Krajick, Clerk of Court by \_\_\_\_\_ Deputy Clerk, DATED \_\_\_\_\_.

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)